

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

RYAN KEITH MASON,)	
)	
Petitioner,)	
)	
v.)	
)	
LORI DAVIS, <i>Director,</i>)	
<i>Texas Department of Criminal Justice,</i>)	
<i>Correctional Institutions Division,</i>)	
)	
Respondent.)	Civil Action No. 3:16-CV-2440-C-BN

ORDER

Before the Court are the Findings, Conclusions, and Recommendation of the United States Magistrate Judge advising that Petitioner's *pro se* petition for writ of habeas corpus under 28 U.S.C. § 2254 be denied. Petitioner timely filed an objection on May 22, 2018.

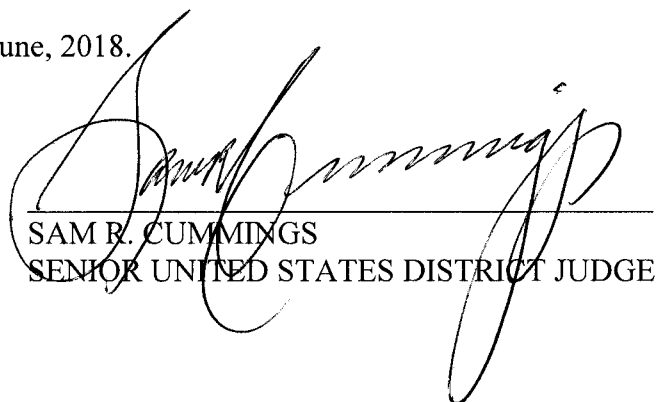
Petitioner (Mason) specifically objects to "the Magistrate's adoption of the state court's credibility determination of the trial attorney's affidavit," arguing that he has previously objected to his trial counsel's affidavit in the state court and presented exhibits demonstrating why the affidavit is false and not credible. Mason claims that he presented clear and convincing evidence in the state court proceedings to rebut his trial counsel's affidavit and that the state court's credibility determinations regarding the affidavit are therefore clearly unreasonable. The Court is of the opinion that Mason's objection is a meritless attempt to have this Court second guess a credibility determination that was within the sound discretion of the state court. Having considered the objection in light of the highly deferential standard correctly set forth in the Magistrate Judge's Findings, Conclusions, and Recommendation, the Court finds that the

Magistrate Judge did not err in giving deference to the state court's credibility determinations and that Mason has not met his burden under § 2254 to show that the state court's determination was unreasonable. The objection is **OVERRULED**.

The Court has conducted a *de novo* review of Mason's objection and overruled the objection as stated above; the Court has further reviewed the remaining portions of the Findings, Conclusions, and Recommendation for clear error and finds none. It is therefore **ORDERED** that the Findings, Conclusions, and Recommendation are hereby **ADOPTED** as the findings and conclusions of the Court. For the reasons stated therein, the above-styled and -numbered petition under 28 U.S.C. § 2254 is **DENIED** and **DISMISSED WITH PREJUDICE**.

All relief not expressly granted by this Order is **DENIED**. Pursuant to Rule 22 of the Federal Rules of Appellate Procedure and 28 U.S.C. § 2253(c), this Court finds that a certificate of appealability should be denied. Petitioner has failed to show that a reasonable jurist would find (1) this Court's "assessment of the constitutional claims debatable or wrong," or (2) "it debatable whether the petition states a valid claim of the denial of a constitutional right" and "debatable whether [this Court] was correct in its procedural ruling." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

SO ORDERED this 8th day of June, 2018.



SAM R. CUMMINGS
SENIOR UNITED STATES DISTRICT JUDGE